



Arizona State Board of Pharmacy
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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A SPECIAL TELEPHONIC MEETING JUNE 7, 2007
GLENDALE, ARIZONA**

MINUTES FOR TELEPHONIC MEETING

AGENDA ITEM 1 – Call to Order – June 7, 2007

President Van Hassel convened the meeting at 1:00 P.M.

The following Board Members participated in the meeting by telephonic communications: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Ridge Smidt, and Paul Sypherd. Deputy Director Cheryl Frush and Assistant Attorney General Elizabeth Campbell were present and participated in the meeting by telephonic communications.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 1, Schedule A, Items 33 and 39.

AGENDA ITEM 3 – Complaint Review

The Consumer Complaint Review Committee met prior to the Board Meeting to review 42 complaints. Dr. Berry, Ms. Honeyestewa, and Dr. Sypherd served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

President Van Hassel asked if the Board Members had any questions concerning the complaints.

The Board Members discussed Complaints #3357 and #3358.

Mr. McAllister opened the discussion concerning Complaint #3357. Mr. McAllister stated that he felt that there was evidence that the pharmacist was writing his own prescriptions and the complaint should be forwarded to a notice of hearing instead of requiring the pharmacist to appear for a conference.

Ms. Campbell stated that it would be better for the Board to hold a conference with the respondent and gather additional information. Ms. Campbell stated after the conference the Board could decide if they would like to offer the respondent a consent agreement or send the case to hearing.

Mr. Van Hassel asked if the pharmacist was still employed. Ms. Frush stated that his employment was terminated by the company that reported the incident to the Board. Ms. Frush stated that he has not submitted a change of employment to the Board.

Ms. Frush stated that the reason the committee had decided to request the respondent to appear was due to the fact that his comments were inconsistent. The Pharmacist stated that he had hard copy prescriptions for his prescriptions, but could not provide copies of the prescriptions. The Pharmacist stated that the doctor's office phoned in prescriptions for his friend, but the doctor's office stated that they did not phone in the prescriptions.

Mr. Van Hassel asked if the Compliance Officer thought that the prescriptions were questionable.

Ms. Frush stated that the validity of the prescriptions was questioned during a routine inspection. Ms. Frush stated that Mr. Cieslinski was conducting a routine inspection and noticed missing prescription information on several telephone prescriptions. Mr. Cieslinski noted the information on his inspection report and spoke to the Pharmacist in Charge concerning the prescriptions. The company followed through on the investigation because the missing information was noted on an employee's prescription. The doctors signed written statements that they did not phone in the prescriptions for the pharmacist or his friend.

Dr. Smidt stated that he would like to speak to the pharmacist to determine what occurred and then determine if a consent agreement should be offered. Dr. Smidt felt that a conference might help determine the terms of the consent agreement.

The Board Members then discussed Complaint #3358.

Mr. Van Hassel asked if the technician was a trainee or certified technician.

Ms. Frush stated that he is a pharmacy technician trainee.

Mr. Van Hassel stated that in the past if an individual was a trainee that the Board had typically voted to revoke the license and not offer a consent order for substance abuse treatment, but he stated that he does not have any objection to offering the technician a consent agreement.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously agreed to accept the recommendations of the complaint review committee.

The following summary represents the final decisions of the Board in each complaint:

- Complaint #3295 - Conference - Pharmacist
- Complaint #3306 - Advisory Letter – Pharmacist
- Complaint #3307 - Dismissed
- Complaint #3309 - Advisory Letter – Pharmacist In Charge
- Complaint #3311 - Dismissed
- Complaint #3312 - Dismissed
- Complaint #3313 - Dismissed
- Complaint #3314 - Dismissed
- Complaint #3315 - Dismissed
- Complaint #3316 - Advisory Letter – Pharmacist
- Complaint #3317 - Dismissed
- Complaint #3318 - Dismissed
- Complaint #3319 - Advisory Letter – Pharmacist and Pharmacy Technician
- Complaint #3321 - Advisory Letter – Permit Holder
- Complaint #3322 - Conference – Pharmacist
- Complaint #3323 - Dismissed
- Complaint #3324 - Dismissed
- Complaint #3325 - Dismissed
- Complaint #3328 - Advisory Letter – Verification Pharmacist

- Complaint #3329 - Dismissed
- Complaint #3333 - Conference – Pharmacist
- Complaint #3334 - Dismissed
- Complaint #3335 - Dismissed
- Complaint #3336 - Conference – Pharmacist
- Complaint #3337 - Dismissed
- Complaint #3338 - Dismissed
- Complaint #3339 - Dismissed
- Complaint #3340 - Dismissed
- Complaint #3341 - Conference – Both Pharmacists
- Complaint #3342 - Dismissed
- Complaint #3344 - Dismissed
- Complaint #3345 - Dismissed
- Complaint #3347 - Dismissed
- Complaint #3348 - Dismissed
- Complaint #3349 - Conference – Pharmacist and Pharmacy Technician
- Complaint #3351 - Dismissed
- Complaint #3352 - Dismissed
- Complaint #3353 - Consent/Hearing – Consent for Revocation – If not signed, the case would proceed to hearing
- Complaint #3354 - Dismissed
- Complaint #3355 - Dismissed

Complaint #3357 - Conference

Complaint #3358 - Consent/Hearing – Consent for Substance Abuse Treatment Program or Revocation – If not signed, the case would proceed to hearing

AGENDA ITEM 4 - Approval for Reimbursement of Registration Fees for Board Members and Staff for the Arizona Pharmacy Convention

President Van Hassel opened the discussion by stating that Mr. Wand stated that funds are available for reimbursement of the Registration Fees for Board Members and Staff for the Arizona Pharmacy Convention. Mr. Van Hassel stated that individuals would be reimbursed at the early registration fee for Members.

On motion by Dr. Berry and Mr. Haiber, the Board unanimously agreed to reimburse the registration fees for Board Members and Staff for the Arizona Pharmacy Convention. The fees would be reimbursed at the early registration rate for Members.

AGENDA ITEM 5 – Proposed Consent Agreement – Elizabeth Hogan

President Van Hassel opened the discussion by asking if Ms. Hogan was present.

Ms. Frush stated that Susan Brichler, Counsel for Ms. Hogan, was present at the office and Ms. Hogan could be reached by cell phone if necessary. Ms. Frush stated that Assistant Attorney General Elizabeth Campbell was present at the Office. Ms. Campbell stated at this time she does not represent the Board, but represents the state. Ms. Frush stated that if the Board Members had any questions that Mr. Munns from the Solicitor's General Office could be reached by cell phone to answer their questions.

Mr. Van Hassel asked if Ms. Hogan was represented by a different attorney than when she appeared at the last two meetings in front of the Board.

Ms. Brichler stated that she is Counsel for Ms. Hogan. Ms. Brichler stated that she works for Quarles and Brady. Ms. Brichler stated that Ms. Hogan was represented by Roger Morris previously. Ms. Brichler stated that Mr. Morris is currently out of town and she is representing Ms. Hogan at this time. Ms. Brichler stated that she is from the same firm as Mr. Morris.

Ms. Campbell stated that she and Ms. Brichler have worked out a consent agreement that Ms. Hogan has agreed to sign and was supposed to fax her signed copy to the Board Office. Ms. Campbell stated that the signed copy has not been received at the Board office at this time.

Mr. Van Hassel asked if it is believed to have been signed at this point.

Ms. Brichler replied yes and she would follow up with Ms. Hogan to work out these details when the meeting is finished.

Ms. Campbell stated that the Board's consent agreement requires Ms. Hogan to have a signed and notarized consent agreement turned into the Board.

Mr. Van Hassel stated that he felt the consent agreement was lenient. Mr. Van Hassel stated that at the last meeting Ms. Hogan insisted that she was innocent of the charges and now the Board is going to allow her to sign a PAPA agreement while not admitting to any charges. Mr. Van Hassel stated his belief is that after listening to people involved in the PAPA program is that they must admit that they have a problem. Mr. Van Hassel stated that he feels that Ms. Hogan would not be a very good PAPA candidate because she cannot admit that she has a problem.

Dr. Smidt stated that most people entering the PAPA program deny that they have a problem and that is the perfect place for them to obtain help identifying their problem.

Mr. Van Hassel stated that Ms. Hogan is not acknowledging the accusations, but will do PAPA anyways. Mr. Van Hassel stated that he was taken aback by the terms which state that Ms. Hogan is not going to agree with the facts of the case.

Mr. McAllister stated that he agrees with Mr. Van Hassel. Mr. McAllister stated that Ms. Hogan had two significant interactions with the Board where she did not admit that she had any issues. Mr. McAllister stated that he feels that this consent is a get out of jail free card.

Mr. Dutcher asked about the suspension period of three months.

Ms. Frush stated that Ms. Hogan requested that her counsel ask for the suspension period to range from three months to one year based on the PAPA Steering Committee recommendations and Board approval. Ms. Frush stated that it is the PAPA Steering Committee and the Board that would approve the termination of her suspension and the imposition of probation.

Mr. Dutcher asked if the suspension could not exceed one year.

Ms. Frush stated that the standard Consent Agreement for a PAPA contract has the maximum of a one year suspension.

Ms. Campbell stated that the minimum suspension time is not less than three months.

Ms. Campbell stated that the consent agreement states that the period of suspension

shall be determined by the Board after receiving a recommendation from the PAPA steering committee. Ms. Campbell stated that once the PAPA steering committee has had an opportunity to evaluate Ms. Hogan's progress, the PAPA steering committee may recommend that a period of three months is not sufficient or it may recommend that three months suspension is adequate. Ms. Campbell stated that the decision is based on the Board's determination after receiving the recommendation from the PAPA steering committee.

Ms. Brichler stated that she spoke with both Ms. Yates and Mr. Barron from the PAPA program and there are several calendar influences that would actually make the suspension more than three months. Ms. Brichler stated that the PAPA Steering Committee only meets twice a year and their next meeting is in October.

Mr. Van Hassel stated that he still has concerns that she did take the Morphine and she still is not admitting to the facts of the case.

Ms. Campbell stated that even though Ms. Hogan is not admitting to the violations she is agreeing to accept the disciplinary action. Ms. Campbell stated that Ms. Hogan will remain on probation for at least four years after her suspension is terminated. Ms. Campbell stated that if Ms. Hogan violates the PAPA contract then the Board could seek disciplinary action against her for violating her consent agreement.

Mr. McAllister stated that he feels that the Board Members wanted assurance that Ms. Hogan did not have a problem with impairment and he feels that the PAPA contract would meet that need. Mr. McAllister stated that Ms. Hogan had plenty of opportunity to ask for help or admit to the allegations. Mr. McAllister stated that he had concerns because of the accusations, such as assault, that she made against her employer. Mr. McAllister stated that he felt that the consent was too lenient, but it would protect the public.

Dr. Smidt stated that Ms. Hogan cannot practice at this time and she cannot practice again until the Board agrees to allow her to return to practice. Dr. Smidt stated that Ms. Hogan would be under a PAPA contract for the next five years. Dr. Smidt stated that he feels Ms. Hogan is ill and anything more would be trying to personally punish this person because she did not handle the situation the ideal way. Dr. Smidt stated that as long as Ms. Hogan has signed the consent agreement the Board retains control of patient safety issues.

Dr. Sypherd stated that Paragraphs two and nine pretty clearly state that the Board is in control of this pharmacist. Dr. Sypherd stated that the Board would be in control of Ms. Hogan's ability to practice pharmacy in Arizona. Dr. Sypherd stated that the Board could take further action if Ms. Hogan violates the order or fails to fulfill the requirements of the consent agreement.

Mr. Van Hassel stated that paragraph nine would then give the Board a mechanism to handle any further issues.

On motion by Dr. Smidt and Mr. Dutcher, the Board unanimously agreed to accept the consent agreement as presented in the meeting book and signed by the respondents. The consent agreement is listed below. A roll call vote was taken. (Dr. Berry – aye, Mr. Dutcher-aye, Mr. Haiber - aye, Ms. Honeyestewa-aye, Mr. McAllister -aye, Dr. Smidt - aye, Dr. Sypherd – aye, and President Van Hassel –aye.)

Elizabeth Hogan

07-0063-PHR

Ms. Campbell suggested that the Board may want to rescind the motion to formal hearing in this case as long as Ms. Hogan submits a signed and notarized copy of this agreement to the Board within a specified time period.

On motion by Mr. Dutcher and Dr. Smidt, the Board unanimously agreed to rescind the motion to formal hearing as long as Ms. Hogan submits a signed and notarized copy of the agreement to the Board Office by Monday afternoon.

AGENDA ITEM 6 – Call to the Public

Call to the Public

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

There were no comments from the public.

AGENDA ITEM 7 – Adjournment

There being no further business to come before the Board, **on motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to adjourn the meeting at 1:50 P.M.

Tom Van Hassel, President **Date**

Zina Berry, Vice President **Date**

Hal Wand, Executive Director **Date**

